IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1210 OF 2003

1. Smt. Sadhana Brijesh Singh and ors. ..Petitioners

Vs.

1. Shri Hayatulla Ratisha and ors. ..Respondents

Mr. M.B. Kotak for petitioners.
Ms. Varsha M. Sawant for respondent no.2.
Mr. A.H. Palekar, AGP for respondent no.3.

CORAM: B.H. MARLAPALLE, J.

Date : July 21, 2006.

P.C.:

1. Heard Mr. Kotak the learned counsel for the petitioners and Ms. Varsha Sawant for respondent no.2.

2. By the impugned order dated 8/8/2002 the application filed under Section 140 of the Motor Vehicles Act, 1988 claiming the amount of no fault liability has been rejected by the learned Member of the Motor Accident Claims Tribunal, Greater Mumbai and this petition is waiting for admission for the last about 4 years.

3. The subject accident had taken place on 5/7/1997 and Application No.4108/1997 claiming for compensation under Section 166 of the Motor Vehicles Act 1988 is still pending.

4. The copies of FIR and two panchanams were perused by the learned Member while passing the impugned order and after noting the uncertainty of the involvement of the Tanker bearing No.MCY-3111 in the concerned accident, the application for no fault liability came to be rejected. Mr. Kotak has placed before me the purported statement of the vehicle owner recorded on 29/7/1997 and it appears that the same was not placed before the Tribunal when the application under Section 140 was decided by the impugned order. Mr. Kotak relying upon the statement states that the owner himself has admitted the involvement of the Tanker bearing No.MCY - 3111 in the subject accident that had taken place on 5/7/1997.

5. The main claim petition has been pending for the last 9 years and it would be just and proper that the same is decided expeditiously so that the entire claim in its totality is considered and decided on

merits by the Tribunal.

6. Hence, the petition is disposed off by directing the Tribunal to decide the main claim petition on its own merits and as expeditiously as possible and preferably by 31st March, 2007. Both the counsel undertake before this court that they will not seek adjournments before the Tribunal.

(B.H. Marlapalle,J.)